

REMARKS

Reconsideration and further prosecution of the above-identified application are respectfully requested in view of the amendments, and the discussion that follows. Claims 1, 2, 4-8, 10-32 are pending, and claims 1, 7, 13, 19, 25 and 26 have been amended. Claims 1, 2, 4-8, 10-32 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 5,999,965 to Kelly in view of U.S. Pat. No. 5,479,488 to Lennig et al. ("Lennig") in view of U.S. Pat. No. 5,758,322 to Rongley in view of U.S. Patent No. 6,535,596 to Frey et al. ("Frey") in view of U.S. Pat. No. 6,029,124 to Gillick et al. ("Gillick") and in view of U.S. Pat. No. 5,475,733 to Eisdorfer et al. ("Eisdorfer") After a careful review of the claims, it is believed that all the pending claims are in allowable form and a Notice of Allowance is respectfully requested.

All the independent claims have been amended to clarify that an initial greeting refers to an unprompted greeting. None of the cited references discloses detecting an unprompted initial greeting as claimed. The Examiner has previously indicated that the combination of Kelly, Lennig, Gillick and Eisdorfer do not disclose an "autodialing" type of call nor sampling of an initial audio portion of the call, and detecting and sampling an initial greeting within the initial audio portion, and stated the claims would overcome the prior art of record if so limited (Off. Action mailed 6/15/05, p. 6). All the independent claims 1, 7, 13, 19, and 25 have these limitations. Frey merely teaches call routing based on the desired language, but also does not disclose initial portion sampling or sampling an initial unprompted greeting in the initial portion.

The Office Action has cited Lennig for sampling an audio

greeting (Lennig, Col. 6, lines 19-43). However, Lennig is an inbound directory assistance system and discloses the caller selecting a language in response to a prompt which asks for selection of a language (Col. 6, lines 1-15). Any such response is clearly not a greeting, nor is an initial greeting sampled in the initial portion and used to determine the language of the call. In fact, as an in-bound system, Lennig is not applicable since no initial greeting from the customer is expected when the customer is calling in instead of being called. Col. 6, lines 19-43 of Lennig cited by the Examiner merely describes determining probabilities of locality names being requested, based upon the calling number, after the caller selects a language; Col. 6, lines 34-43 merely describes subsequently prompting the caller to identify a city; and Col. 8, line 8 - Col. 10 describes details for determining probability that a particular location will be selected. Nothing in Lennig discloses sampling an initial greeting. The Office Action also cites Rongley as teaching choosing voice template based upon an initial utterance from the user. However, Rongley also concerns on an "inbound" system for point of sale transactions which listen for a response from the customer to an initial question." (Col. 11, 36-40). This is not unprompted nor is it a greeting, rather it is a response to a prompt. Thus, Rongley also fails to disclose use of an unprompted initial greeting.

Thus, the cited combination does not teach or suggest all the claimed features and therefore the independent claims 1, 7, 13, 19, and 25 are distinguishable over any combination of the cited references. In addition, claims 2, 4-6, 8, 10-12, 14-18, 20-24, and 26-32 are believed to be allowable because they depend from allowable base claims.

In addition, the rejection under §103(a) relies upon a complex construction of numerous individual features each from a

separate reference, many of which are incompatible with each other. This construction is accomplished only with use of hindsight based upon the teaching of the instant application with no teaching by the references to suggest combining them. The motivation suggested in the Office Action are also merely those taught by the application. As such, this hindsight construction of the invention is improper under §103 and therefore, all the claims are further distinguishable over the cited reference for the reason as well.

Accordingly, allowance of all pending claims 1, 2, 4-8, and 10-32 is believed to be in order and such action is earnestly solicited. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, he is respectfully requested to telephone applicant's undersigned attorney.

The Commissioner is hereby authorized to charge any additional fee which may be required for this application under 37 C.F.R. §§ 1.16-1.18, or credit any overpayment, to Deposit Account No. 23-0920. Should no proper amount be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 23-0920. A duplicate copy of this sheet(s) is enclosed.

Respectfully submitted,  
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